

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JAN 27 2012

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2011-0003
	)	DEPARTMENT B
Appellee,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
JOHN PATRICK KELLY,	)	the Supreme Court
	)	
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause No. CR20080005

Honorable Peter J. Cahill, Judge

AFFIRMED

Emily Danies

Tucson  
Attorney for Appellant

K E L L Y, Judge.

¶1 Following a jury trial, appellant John Kelly was convicted of fraudulent schemes and artifices, theft, trafficking in stolen property, attempted theft, and three counts of criminal impersonation. The trial court imposed concurrent, enhanced, aggravated and presumptive prison terms, the longest of which were twenty-two years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating she has reviewed the

record and has found “[n]o . . . question of law” to raise on appeal. Counsel has asked us to search the record for fundamental error. Kelly has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence was sufficient to support the jury’s findings of guilt. The evidence presented at trial showed Kelly had approached several victims, giving them a false name or position, and had offered to sell them electronics and computers for a discounted price. Kelly had taken cash or items in trade from the victims and had sold some of the jewelry he had received in trade, but he did not provide the victims with the promised merchandise. We further conclude the sentence imposed is within the statutory limit. *See* A.R.S. §§ 13-703(J),<sup>1</sup> 13-1001, 13-1802, 13-2006, 13-2307, 13-2310.

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, Kelly’s convictions and sentences are affirmed.

/s/ *Virginia C. Kelly*  
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VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ *Garye L. Vásquez*  
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GARYE L. VÁSQUEZ, Presiding Judge

/s/ *Philip G. Espinosa*  
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PHILIP G. ESPINOSA, Judge

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<sup>1</sup>The Arizona criminal sentencing code has been renumbered, effective “from and after December 31, 2008.” *See* 2008 Ariz. Sess. Laws, ch. 301, §§ 1-120. For ease of reference and because no changes in the statutes are material to the issues in this case, *see id.* § 119, we refer in this decision to the current section number rather than that in effect at the time of Kelly’s offense.